

MINUTES OF THE EXECUTIVE APPROPRIATIONS COMMITTEE

October 17, 2000

Room 303, State Capitol

Members Present: Sen. David Steele, Committee Co-chair
Sen. Leonard Blackham
President Lyle Hillyard
Sen. John Valentine, Vice-chair
Sen. Mike Dmitrich
Sen. Paula Julander
Sen. Steve Poulton
Rep. Kevin Garn
Rep. Tom Hatch, Vice chair
Speaker Martin Stephens
Rep. Patrice Arent
Rep. Ralph Becker
Rep. Greg Curtis
Rep. Brad King
Rep. David M. Jones

Excused: Sen. Scott Howell
Rep. Jeff Alexander, Committee Co-chair

Staff Present: John E. Massey, Legislative Fiscal Analyst
Kathryn M. Jackson, Secretary

List of others present on file.

Senator David Steele called the meeting to order at 1:17 p.m.

1. Approve Minutes

Sen. Al Mansell made a motion to approve the August 15, 2000 minutes. Motion passed unanimously.

2. Update on UCAN (Utah Communications Agency Network) as requested in the June 13, 2000 Executive Appropriations Committee

Jon Ball, Fiscal Analyst, reported on the UCAN project. The Federal Telecommunications Act of 1996 directed the Federal Communications Commission to “re-farm” and auction a number of communications frequencies.

Utah decided that the best approach to this refarming was to consolidate public safety radio state-wide on the 800 MHz frequency band. The Legislature thus created UCAN as an “independent state agency” in 1997 to facilitate 800 MHz public radio communications.

In the past three years, UCAN has worked with state and local agencies along the Wasatch range to create a cooperative communications system serving multiple public entities in a nine-county region.

As UCAN is an “independent” entity exempt from numerous state laws; this body has shown interest in its process. Interest in its operational status, results of 2000 Annual Audit, State Expenditures on 800 MHz, and Federal Grants to Department of Public Safety for 800 MHz.

While UCAN has encountered some delays, they have made significant progress toward full operation along the Wasatch range.

Thirty five of the forty construction sites are complete. Three additional sites (American Fork, BYU and Quarry Mountain) to be completed by end of month.

Two remaining sites (Teet Peak/Provo Canyon and Clayton Peak/Big Cottonwood) will be addressed in next construction session.

Current users include all Davis County municipalities, Weber County, Ogden City, Orem City, and some Salt Lake City users. Highway patrol is beginning to use service in the above mentioned geographical areas.

With completion of sites at American Fork, BYU, and Quarry Mountain, as well as software patch for Motorola consoles, system will be operational in all areas (with the exception of Big Cottonwood Canyon and Provo Canyon) by November 2000.

The Salt Lake County Commission is eager to combine the County’s 800 MHz system with UCAN pending assessment of fair market value and agreement on terms.

In his second annual audit of UCAN, the State Auditor issued three findings and recommendations regarding UCAN’s internal control:

1. Lack of Budgetary and Administrative Policies:

UCAN is exempted in statute from the Administrative Procedures Act and the Budgetary Procedures Act, among other laws. In exchange for the exemption, UCAN is directed to establish “substantially similar” policies and procedures of its own.

In June, when the Executive Appropriations Committee voted to allow UCAN to receive Federal funds from Department of Public Safety, it was only after UCAN's Executive Director testified that UCAN was making progress on these policies and with the understanding that UCAN would return this month with an update on its establishment of such.

However, in response to the Auditor's repeated concern on this subject, UCAN stated it found the process of establishing substantially similar policies and procedures "time consuming and onerous." It has not completed work on the policies to date.

2. Lack of Separation of Duties:

UCAN's staff size dictates overlapping certain responsibilities. These overlapping responsibilities include custody of assets, record keeping, and authorization of expenditures. The Auditor recommends separating incompatible functions to reduce the risk of error of misappropriation.

UCAN is addressing these concerns as its staff size expands.

3. Overpayment of Consultant:

The Auditor found multiple billing errors resulting in overpayment of more than \$4,000 to an outside consultant.

UCAN has corrected the overpayment, but does not address in its response to the auditor preventative measures for future invoices.

Legislature has appropriated \$4.2 million for the State's transition to 800MHz public safety communication. Of that amount \$750,000 was for UCAN services fees, \$3.5 million for radio equipment.

While no state agency has yet paid service fees to UCAN, agencies, most notably Public Safety and Corrections, have purchased radios and consoles that operate on 800 MHz frequency band. The widespread use of these radios is contingent upon UCAN's success.

Past funding for service fees (between \$220,000 and \$750,000) will be used on a one-time basis to purchase additional equipment, thus reducing future one-time funding needs.

The Department of Public Safety has secured \$11 million in Federal funding for UCAN for FY 1998-FY 2000.

Additional revenue could be put to a number of uses:

- a. Monthly rates (\$30 per month per radio-State \$17.50-local) might be reduced.

- b. UCAN's budget does not currently include a sinking fund for capital equipment- additional revenue could cover portion of capital investment in 15-20 years.
- c. UCAN has \$17 million in outstanding bonds to be repaid by service feeds. Federal funds could repay debt.
- e. UCAN service covers counties along Wasatch range and does not include Salt Lake County. Funds may be applied to purchase SLC assets or expand service region.

Conclusions:

Continued legislative oversight is warranted. UCAN slowly reaching operational capacity. Auditor finds continued management concerns. State buying radios in anticipation of service. Changes in policy and funding warrant continued consideration by the Quasi-governmental Committee.

Senator Steele questioned Dean Eborn, State Auditor's Office, as to UCAN's success in addressing problems that were found with the audit and previous years. Mr. Eborn replied that the first two findings the same as the year previous.

Senator Steele asked if there had been direct communication between the Auditor and UCAN on the first audit's findings. Mr. Eborn said that UCAN's response to the first audit is included in the audit report.

Steve Proctor, UCAN Executive Director, commented that he is going to recommend at the next board meeting that UCAN adopt the Policies and Procedures of the State.

Senator Steele requested of Steve Proctor if he thought it would be helpful to have an endorsement of the Executive Appropriations Committee. Mr. Proctor responded in the affirmative.

Senator Steel suggested that Committee members consider making a motion in support of UCAN's adopting State Policies and Procedures once the Committee had a quorum. The motion was later deemed unnecessary.

3. Funds Consolidation

Spencer Pratt reported to the Committee that over 30 years ago, the State went through a "Funds Consolidation" process in which the number of funds was reduced to 10 (the General Fund, two Special Revenue Funds: the Uniform School Fund and the Highway Construction and Maintenance Fund; and seven Trust and Agency Funds). Over the past 30 years, the number of funds has grown to 129 restricted funds between the General Fund, the Uniform School Fund, and the Transportation Fund. The growth in the number of funds has come as a result of legislation authorizing specific agencies to establish special or "restricted" funds within one of the

above-mentioned funds. There are 120 restricted funds authorized within the General Fund, representing FY 2000 closing fund balances of nearly \$500 million. It was noted that a significant portion of these balances is revolving loan funds or other non-cash assets.

In the 1967 report, the Legislative Fiscal Analyst, warned not to assume that the reduction from 171 to 10 funds would create a large windfall of money which would be available for legislative appropriations. A move to reclassify restricted or earmarked revenues as free revenues would be offset by appropriations that would need to be made for the programs which the earmarked revenues previously financed. A process of consolidating previously restricted funds does not generate any new revenue, unless a program is reduced or eliminated. However, it could be argued that a reduction of restricted funds may provide the Legislature with more flexibility.

In determining whether any funds should or should not be consolidated, the Analyst determined both the advantages and disadvantages of consolidating the effect such a consolidation would have on the Legislature, the Fiscal Analyst, and the Division of Finance, as well as the affected state agencies.

Spencer Pratt outlined several advantages and disadvantages of consolidation for the Legislature, Legislative Fiscal Analyst and the Division of Finance. Some of the advantages would be fewer funds to understand and handle, better able to control growth of government programs, and decrease the inequity between “General Fund” agencies and “Non-General Fund” agencies.

Funding would be more stable and secure for programs which would be an advantage of consolidation for state agencies.

Disadvantages of consolidation for the Legislature, Legislative Fiscal Analyst, and the Division of Finance would be the General Fund would become the funding base for more programs, state agencies collection efforts may not receive the same level of emphasis, and restricted funds allow the isolation of assets.

Disadvantages of consolidation for state agencies would be that agencies would have less flexibility in increasing program expenditures and agencies could encounter problems with groups for whom they provide services.

Spencer Pratt offered three recommendations to the Committee:

1. The Analyst has reviewed the restricted funds currently authorized in statute and those created administratively by the Division of Finance. Of those reviewed, 49 have been identified as potential candidates for consolidation into the General Fund as shown in Attachment A. In addition, the Analyst has identified nine funds that are still authorized, but are no longer necessary and should be repealed. The FY 2000 closing balances of these 58 funds total \$33.8 million. Attachment B lists

those funds not recommended for consolidation with balances over \$1 million.

2. The Analyst recommends that the Legislature review this report and its recommendations during the next few months and that further consideration be given early in the 2001 Interim. If a bill to consolidate funds is approved, it could be introduced during the 2002 Session. At that point, the Analyst would recommend that an implementation date of July 1, 2003 (FY 2004) be approved, so that there is enough lead time to implement the provisions of the bill and build the FY 2004 budget under the proposed consolidation.
3. In the 1967 Funds Consolidation, the study reported, "To guard against possible passage of a bill which contains provisions to establish a new fund, it is also suggested that the rules of the Legislature require that all such bills be referred to a committee. The designated committee would be assigned to study the bill in the light of the statutes regarding Legislative policy governing the establishment of funds." The Analyst recommends that this policy be adopted to curtail the establishment of numerous new funds in the future.

There was a discussion on what criteria was used to determine which funds were to be considered for elimination.

Motion: Speaker Martin Stephens made a motion that the Executive Appropriations Committee continue to look at the information obtained so far and ask departments to respond to potential impact. Motion passed.

4. FY 2001 and FY 2002 Preliminary Revenue Estimates.

Members of the Executive Appropriations Committee were updated by John Massey on preliminary revenue estimates. It was stated that the revenue estimates reflect Olympic revenue, capital gains, and a strong economy as major reasons for the increases. Also, income tax collections were significantly up over last year. A summary of the new revenues was passed out.

Senator Steel accepted the report on revenue projections.

5. Jail Contracting/Jail Reimbursement-Funding and Clarification

The 1993 Legislature developed a jail reimbursement program to fund county jails for keeping offenders sentenced to jail as a condition of probation. Such sentences are in lieu of a sentence to the State Prison, which the judge stays for the probation and a shorter time in jail. The bill required the Department of Corrections to request jail reimbursement funds each year on a sliding scale so that after five years the program would be at full funding. The FY 2001 funding totaled \$7,264,600, full funding has not yet been appropriated for the program. The urban counties now claim that Jail Reimbursement funds should be brought up to full funding and take

precedence over funding of new beds under Jail Contracting by the Department of Corrections.

William Dinehart, Fiscal Analyst, noted that it is important to distinguish between Jail Reimbursement and Jail Contracting. The statute describes **Jail Reimbursement** as, "The Director of the Department shall reimburse counties for daily inmate costs according to the amounts established under Section 64-13c-302, and to the extent that monies are available in the program." These inmates are those created, "When a person convicted of a felony is committed to serve time in a county correctional facility as a condition of probation....". Conversely, **Jail Contracting** is an agreement between the state and a county sheriff to house at a given per diem rate inmates sentenced to the state prison system.

The estimated funding shortfall in jail reimbursement for FY 2001 including medical and transportation is estimated to be approximately \$1,909,000. Dave Walsh, Commission on Criminal and Juvenile Justice, explained the shortfall by stating that there was a one year delay on the implementation of the bill. Lynn Ward, Governor's Office of Planning and Budget, stated that the fiscal note on the ending days of session was amended to reflect the delay in implementation.

The Appropriations Act for FY 2001 lists Jail Reimbursement and Jail Contracting as separate programs and assigns the amount of funding for each.

The issue of state payments for some form of Jail Reimbursement has been the subject of debate for over 25 years. This debate has also been part of the general discussion relative to the overall state/county relationships.

William Dinehart, Fiscal Analyst, suggested the following recommends to the Committee:

1. Continue to fund Jail Reimbursement annually in accordance with available revenues and legislative priorities, or
2. Fully fund Jail Reimbursement at the negotiated rate before funding any additional beds through contracting, or
3. Change the existing statutes.

A motion by Speaker Martin Stephens to adjourn and Senator Steel adjourned the meeting at 2:50 p.m.

Senator David Steele, Co-Chair

Representative Jeff Alexander, Co-Chair

